

3220 E. Sierra Madre Bl.
Pasadena, CA 91107-2038
September, 24, 2008

Mr. Brian Lau
Fair Political Practices Commission
Sacramento, CA

Dear Mr. Lau:

Thank you for the opportunity to comment upon the proposed Regulation 18420.1.

I understand that the Commission is trying to provide a safe harbor for local districts that supply information on ballot measures relating to their district. I fully support that effort. Without question, cities, school districts and other local entities should be able to disseminate basic information about a measure relating to their district that is on an upcoming ballot.

Nearly every district governing board is already sensitive to the need to remain neutral and present only factual information. Nonetheless, I support an explicit regulation requiring such neutral presentation of information by local governments.

However, I would urge the Commission, rather than requiring "a fair and impartial presentation of facts" to be exempt from constituting an expenditure, instead to prohibit "express advocacy".

The language of "fair and impartial presentation of facts" is inherently subjective and undefined. It is the ultimate in relying upon the "eye of the beholder" and, I believe, that language will invite endless litigation and leave municipal authorities in a cloud of uncertainty.

In contrast, the FPPC and FEC have developed a substantial body of explicit interpretation, supported by appellate rulings, as to what constitutes "express advocacy". This provides municipal authorities excellent and reliable guidance in knowing what they can and cannot present to their citizens.

Thus, if the FPPC were to rewrite the regulation to exempt from the definition of expenditure any costs associated with sample ballot or legal notifications, and any information provided to the public that does not include "express advocacy" for or against a local ballot measure, then I believe local authorities would have a firmer footing and feel far more confident in knowing what is permissible and what is not.

Thank you for your consideration of this input.

Jonathan Fuhrman